sponsors, Senate Majority Leader MIKE MANSFIELD, of Montana; Senate Democratic Whip HUBERT H. HUMPHREY, of Minnesota; and Senator CLINTON P. ANDERSON, of New Mexico.

OLD BILL FEARED DEAD

ANDERSON'S cosponsorship of the measure does not mean he is dropping support of the administration's broader medicare bill, which ANDERSON coauthored, a spokesman for the Senator said.

But the spokesman noted that it will be practically impossible to pass that bill. This is because the House already has voted increased cash benefits for social security.

In the view of many, these cash benefits plus the full range of health benefits which the administration initially had sought would place too much of a financial burden on the social security structure.

Thus, the Senate leadership feels it can rally more support behind RIBICOFF'S "free choice health insurance" plan which scales down some benefits. It reduces the amount of nursing home care and visiting nurse services, and omits outpatient diagnostic services.

RETAINS BASIC BENEFITS

However, it retains the same hospital benefits as the administration's original proposal. Ninety days of hospitalization with a 2½-day deductible or 45 days of hospitalization with no deductible would be provided.

The most politically palatable feature of the RIBICOFF plan is that it gives the social security beneficiary at age 65 a choice. The beneficiary could elect to receive a $7 monthly increase in cash benefits with no health insurance, or a $2 monthly increase with the health benefits.

Persons over 65 who are not covered by social security would be given health insurance benefits financed out of general revenues.

RIBICOFF'S proposal also provides for a national private organization to administer the health care plan. This is interpreted to mean that Blue Cross probably would be selected to deal with the hospitals.

WAGE BASE INCREASED

Both the increased cash benefits and the hospital plan would not go into effect until next July. They would be financed by raising the taxable wage base from the present $4,800 to $5,400. The tax rate for both employees and employers would go up from the current 3.6 to 3.9 percent. By 1971, the tax rate would be 5 percent for both employees and employers.

Under the social security measure which has passed the House, beneficiaries would get 5 percent monthly cash increases, beginning in October, but no health benefits. These increases would range from 80 cents to $6.40. They would be financed by raising the taxable wage base to $5,400 and the tax rate to 3.8 percent in January and 4.8 percent by 1971.

That bill is now before the Senate Finance Committee, which concluded hearings yesterday. When the committee meets in executive session Monday to begin marking up the bill, attempts will be made to add the administration's broad medicare proposal or the Ribicoff measure to it.

These attempts are expected to fail in committee but the administration has enough votes to add the optional health plan when the issue comes to a showdown vote on the Senate floor.

Mr. PASTORE. Mr. President, will the Senator yield further?

Mr. RANDOLPH. I yield.

Mr. PASTORE. I should like to have the RECORD show that the Senator from Rhode Island has not as yet determined in his own mind whether he will support the alternative plan. However, it is worthy of serious consideration. I have always felt that the better way to do it wolud be by medicare under the social security system. That was the suggestion which was originally made by President Kennedy. However, I understand that the administration is now looking rather favorably and kindly on the new proposal as a way of accomplishing something. In that spirit it ought to be given serious consideration. What appeals to me about it particularly is that the choice is left up to the recipient.

Mr. RANDOLPH. Yes. I commend the Senator from Rhode Island, and especially join with him in his expression that there is certain value in the personal determination by the aged citizen as to the program to be used.

Mr. President, before taking my seat I wish to indicate the presence in the Chamber of the Senator from New Mexico [Mr. ANDERSON]. I have been discussing, in his absence, his leadership in the program of medical care for the aged, and of the conferences in which he has presumably been engaged. He has the hope for realization, if not of the King-Anderson bill, which I support and of which I am a cosponsor, then of the modified plan, which would allow the recipient an option.

I express to him, as I have in the past, my appreciation for his continued effort.

Mr. ANDERSON. Mr. President, I wish to express to the Senator from West Virginia my sincere appreciation for what he has had to say, and also for his action in being a cosponsor of the new proposal by the Senator from Connecticut [Mr. RIBICOFF].

Mr. RANDOLPH. I thank the Senator from New Mexico, and entertain the hope that this problem—a real one for millions of people—can be adjusted with justice and realism.

AMENDMENT OF FOREIGN ASSISTANCE ACT OF 1961

The Senate resumed the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

Mrs. NEUBERGER. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. BURDICK in the chair). The pending question is on agreeing to the Dirksen-Mansfield amendment to the foreign aid bill.

Mrs. NEUBERGER. I believe the amendment is proposed as an appendage to the foreign aid bill?

The PRESIDING OFFICER. The Senator is correct.

Mrs. NEUBERGER. Since the basic business before the Senate is the foreign aid program, and since there is now a proposal to make as a basic part of that program the rescinding or placing in cold storage of a decision of the Supreme Court, there may be some doubt around the country as to how those two ideas are related. It would be rather difficult for us to demonstrate that they are related. We need to explain that the Senate does not have a rule of germaneness and that it is possible to attach an unrelated amendment to a bill and make it an integral part of the bill, so that those who oppose one phase of the bill are hamstrung if they believe in the main issue, and vice versa.

Speaking of the obvious incongruity of attaching a reapportionment amendment to the foreign aid bill, I am reminded of another incongruous situation that occurred in the Chamber recently when we received from the House a bill relating to the importation of animals for zoos. The bill which passed the House was referred to the Committee of Finance, where an amendment having to do with quotas for the importation of beef was attached. The bill came to the Senate with its original title; but when the bill left the Senate, the original text and title were missing, and only the Senate amendment was left.

That situation will not happen exactly in that way with the bill under consideration; but there is a certain amount of ridiculousness about it.

I have tried to think what justification there could be for talking about "the rotten borough legislative system" in many of our States at the same time when we consider our aid to countries on other continents. I suppose someone might say, "So long as we are aiding Nigeria, we might as well aid Iowa."

But my point is that the attempt of those who support the amendment to interrupt the usual process of the Court and of the legislative branch may not be of much aid to the very area which those who make the attempt purport to help.

As I view this matter, two issues are at stake in this debate—both of enormous consequence to the political scene in the United States:

The first is whether we are going to allow unconstitutionally elected State legislatures to perpetuate themselves in office, by being their own constitutional judges, and, in so doing, deprive their own constituents of the constitutional right of equal representation.

The second issue is the question of making the States strong partners of the Federal Government in meeting the needs of the citizenry.

Mr. President, I have been in this reapportionment fight for quite some time. That is why today I am delighted to speak about it, in part based on my own experience and observation.

Of course, I was influenced a great deal by my membership in the Oregon Legislature, where this issue was so long a burning one, and, I may say, a successfully concluded one. At that time, my husband was a very deep student of the situation existing in the State legislatures; and he wrote many articles, which received national acclaim, and are still quoted as authorities on this subject. Since I worked a great deal with him on them, at this time I shall read a portion of an article he wrote for the New York Times magazine in October 1952, at the time when this issue was a fomenting one in our State. I now quote from his article:

"States rights" is still a battle cry of freedom to many Americans in public life.

I hope I shall be pardoned if I interpolate along the way, to point out—al-

though I hardly need do so—that these truisms are just as effective in 1964 as they were in 1952, when this article was written. Almost every week we hear that battle cry in this Chamber.

I continue to read from the article:

These men and women deplore the rise of a vast centralized government, and they yearn for the era when basic political and economic decisions were made beneath the 50 State capitol domes rather than at the White House or in marble conference rooms in Washington, D.C. To zealous sponsors of States rights, America never has been the same since Federal sovereignty emerged supreme in such varied realms as taxation, natural resources, labor relations and even housing and aid to the needy.

Of course, it was assumed that voting rights were naturally indicated in the Constitution, and that there was no question about them. If this article had been written this year, I am sure the question of people's civil rights and political rights would also have been covered in the article. I read further from it:

Yet, when all is said and done, the march toward an increasingly powerful Federal Government is never going to be deterred by speeches or political maneuvering. It can be halted only by the States themselves. They must demonstrate that they are capable of governing effectively, honestly, and with reasonable haste in time of crisis. When their State government falls down on an essential chore, voters inevitably look to big government in Washington to step into the breach. Federal authority under the New Deal originally crowded out States rights because the States, meaning principally their legislatures, failed utterly even to scratch the crucial problems of misery, unemployment, and farm surpluses stemming from the industrial depression of the 1930's.

Will legislatures in 1964 be better equipped to grapple with a great emergency? Can they exercise the States rights which are so often a subject of legislative oratory? In each State the legislature is the supreme policymaking arm of government. But is this arm sinewy and strong—or is it shriveled and weak?

I am reminded of an expression we often used after a bout with cancer and medical research: "Where would we who suffer from cancer have been if we had depended upon the individual States to conduct research that has brought about the reduction in the mortality of our people from such dread diseases as cancer?" One cannot buy cancer research at the corner drugstore; the great arm of the Federal Government is necessary. Where would our States be if we depended on the great arm of the Federal Government for all the necessary developments and progress, including the various social-political benefits?

Instead of fighting the battle of State versus the Federal Government, we should realize that each year there is more to be gained by cooperating our activities. I fear that in all too many States the legislative arm is weak and unresponsive to the need for action. If ever there was an opportunity for the advocates of meaningful States rights, as opposed to slogans, to stand up and be counted, this is the time. A vote to sustain the reapportionment decision of the U.S. Supreme Court will be a vote to revitalize State and local government.

A vote to support the amendment of the Senator from Illinois [Mr. DIRKSEN] is a vote to centralize more power in the Federal Government.

Another article—carrying the same theme fits in well today, as it did in 1959. It was written by the eminent journalist, Mr. Richard Strout, and appeared in Harper's Magazine. But these are mosquito bites compared to the real problem in the United States great super cities of forming not metropolises, megalopolises, already one vast urban region stretching 600 miles from New Hampshire to Washington, D.C. holds one-fifth of the country's population.

Similar conglomerations will run from Los Angeles to San Diego, and from Cleveland to Pittsburgh. They will include most of the cities along the St. Lawrence Freeway—Detroit, Toledo, Chicago, and Milwaukee. How can rural lawmakers, men who never rode a subway, deal with the super cities' staggering transportation, industrial, housing, and other such problem? In fact, they do not.

It is appropriate at this point to relate an anecodote that I cherish in some ways. My State is quite a rural State. We have one large city—Portland. I presume that local pride would require one to say that Portland has a population of 400,000. There is then a very sudden drop down to cities with populations of 50,000, 20,000, and finally 4,000 and 5,000. The rural atmosphere of the State is unquestioned.

My anecdote deals with a school superintendent from a small county in my State. He came here to serve on the President's Committee on Education, which committee is called the White House Conference. The school superintendent stated to me, "You know, I was born in Oregon. My 12-year-old son was born in Oregon. Neither of us was ever out of the State until we came to Washington. I decided to bring my little boy with me."

I asked him, "Where is he? What does he do all day while you are at meetings and conferences?"

He said, "He stays in the hotel and rides up and down on the elevator. There is not one elevator in our whole county. My son had never seen an elevator before and he is absolutely fascinated with it."

It is hard to believe in this day of advancement in communications, transportation, and other fields that there are people who find such fascination in riding an elevator. People—not the school superintendent, fortunately—who are patrons of his school have no conception of urban problems of mass transportation.

During our recent debate on these problems affecting the large cities, I received a good many telegrams and letters from constituents in my State, urging me to oppose such legislation. They stated that the matter did not affect Oregon, that not 1 cent of the money would be spent there. They showed a complete lack of understanding of the problems that face millions of people in our country.

Returning to the Richard Strout article, commenting on this subject he stated:

In 1953, President Eisenhower was determined to scale down centralized Government by returning more functions to the State. So he set up a Commission on Intergovernment Relations headed by one of his special assistants, Meyer Kestnbaum, a much respected business magnate. The Kestnbaum report proclaimed facts which college professors had vainly tried to tell the Nation for years. Cities are bringing problems to Washington because State legislatures won't handle them.

In a majority of the States, said the report, city dwellers outnumber the citizens of rural areas. Yet in most States the rural voters are overwhelmingly in control of one legislative house, and overweighted, if not dominant, in the other. If the States do not give the cities their rightful allocation of seats in the legislature, the tendency will be toward direct Federal municipal dealing.

I have been identified with this problem. Fortunately I have been in the middle of it in Oregon. It was an exciting procedure in our political history.

Our experience in finally bringing about reapportionment, after many years of quoting our own constitutional requirement, was made the subject of an article—really it was more than an article; it was a thesis—written by Gordon Baker, of the University of California. It was entitled, "Reapportionment by Initiative in Oregon."

I read from the article:

One of the most persistent and knotty problems of State government is the periodic apportionment of legislative seats to keep pace with population shifts. Few States, if any, have solved the problem in so apparently satisfactory a way as has Oregon. The fact that the solution was arrived at by means of the Oregon system of direct democracy makes this accomplishment a matter of special interest to students of government.

The implement which appears satisfactory to most Oregonians did not materialize until 1952 and did not take effect until 1954. Indeed, for nearly half a century the question of reapportionment had been the subject of frequent legislative struggle, political discord, and public debate. As the State's population pattern shifted over the years, Oregon changed from a rural society to a largely urban one. Yet, successive legislatures, reflecting an apportionment dating primarily to the first decade of this century failed to carry out the State constitution's provisions for decennial realloction of legislative seats according to population changes.

These many years of inaction worked to the particular disadvantage of Multnomah County, which contains most of the Portland metropolitan region. From 1910 onward this single county contained approximately one-third of Oregon's total population, yet it elected less than one-fourth of each house of the State legislature. However, population shifts throughout the State eventually resulted in other counties being substantially underrepresented as well. The earlier apportionments contained some strange disparities even for their time, and by 1950 the number of inequities in district strength had multiplied. Some of the areas absorbing Portland's suburban growth had shown dramatic population increases, while to the south, counties such as Lane and Klamath were proportionately underrepresented even more than the metropolis.

Geographically, the area which benefited most from the status quo was the sparsely populated eastern two-thirds of the State, separated by the Cascade Mountain range from Oregon's main urban centers to the west. While portions of eastern Oregon had kept pace with (or even exceeded) the State's population growth, most of these 18 counties had lagged far behind. By the 1950 census the region as a whole contained only 16 percent of the State's population, yet elected close to 27 percent of each house of the legislature. With slightly more than half the number of inhabitants as Multnomah County, eastern Oregon could handily outvote that metropolitan center in legislative matters.

At that point I began to feel almost emotional about the whole business of reapportionment. As a citizen, a member of the League of Women Voters, and one who had read journals of the Council of State Governments for many years, I had been philosophically concerned with the problem. But, as we all know, when a thing strikes home to us or to someone close to us, our attitude takes on a personal approach and our fervor becomes unbounded.

I went to the State legislature as a result of a rather sudden decision. However, it was a decision for which I have always been thankful. I had a zeal to correct certain social problems in my State, namely, problems in the field of education, civil rights, and benefits for teachers. I had been one.

I finally saw that we were sending the same people back to the legislature every year, and they were perpetuating a bad system. I felt that perhaps we could change it.

When I went to the legislature, I made a very good friend who was the country editor of a small county newspaper in the sparsely populated part of our State to which I have just referred in Mr. Baker's article. That editor was considered the sage of the area. He published pithy statements in his newspaper. But needless to say, he was violently opposed to changing the status quo.

My husband often said, "Politicians hesitate to change the system by which they themselves survive."

That editor was an example of that statement.

As I said, we became very good friends. He sat next to me. By actual count, his county had a population of 2,129. The county I represented had a population of 500,000. Yet the vote of the editor had exactly the same value as mine. Other than our good personal relationships, we were at opposite poles on every issues that came before that legislature.

In his county the people had no conception of the problems of juvenile delinquency that we in Portland faced. They had no minority groups to be concerned about. They did not have a shifting population. The population of slightly over 2,000, including every baby, consisted of fourth and fifth generation citizens who had come to Oregon as pioneers and homesteaders. They had settled on ranches, and had contributed a great deal to the wealth of our State. We recognized that they did, but they were also people who could not see what was happening in the shifting sands of population.

It was useless for me to argue with my friend that by changing the reapportionment of our State we would not impose a big city on small counties. Portland was, and still is, the port of our State. Through its beautiful, fresh water port, to the sea at Astoria, all the wealth produced in that vast, wonderful and beautiful wheat land and cattle land is shipped.

I am glad to say that I can bring the story to the Senate, because reapportionment prevailed. Our State has continued to grow and prosper. Eastern Oregon and the county represented by my friend have not suffered one iota. The people of that area have had no big city politics or bossism pushed down their throats. The grains of golden wheat continue to be shipped through our port, and we are all living happily together.

I have told the story of reapportionment in my State and how it finally came about. I hope that the anecdote has shown Senators that we cannot expect legislatures to reapportion themselves. It is not within the realm of possibility, human nature being what it is. My country newspaper editor would never vote to eliminate his own seat in the legislature. The people who were there were not going to change the system by which they maintained a "rotten borough" legislature during all the years since Oregon became a State. Such organizations as the League of Women Voters, the Young Republicans, and the Young Democrats, working together in such harmony as we have not seen since, were able to bring about this amazing change in our political climate.

I continue to read from Mr. Baker's article entitled "Reapportionment by Initiative in Oregon":

Ferment over the question of legislative representation became increasingly intense in 1949 and 1950. Richard Neuberger, who was then a State senator from Portland (later elected to the U.S. Senate), authored proposed legislation as well as several articles in national journals about urban underrepresentation in Oregon. Neuberger's bill to carry out reapportionment according to the provisions of the constitution failed after a lengthy and bitter legislative battle.

With the legislature apparently unable to agree on a reshuffling of its own seats, two diverse groups then resorted to the initiative process in 1950. The first of these, mainly representing urban and labor interests, would have enforced decennial reapportionment of both houses largely on a population basis.

This movement's petitions failed by some 2,000 signatures to gain a place on the ballot. A competing organization, styled the "Nonpartisan Committee for Balanced Apportionment" was more successful and qualified its proposal for the 1950 election.

This is the one I just referred to.

The interesting thing about this battle was that there was spirited opposition from a group that now are our great allies. I refer to the AFL–CIO, the Oregon State Grange, and the Farmers Union. It is a tribute to those groups that they have come full circle, and not only support us, but realize that what happened in Oregon was most successful. They are now pleading with me and hoping that I will continue my belief in equal representation in the U.S. Senate.

I continue to read:

After this double failure, a joint committee of Young Democrats and Young Republicans met in 1950 to see if the members could draft a new initiative petition. A number of conferences produced agreement on an effort to enforce the existing constitutional provisions. In order to form a nonpartisan rather than a bipartisan campaign, the original conferees approached the League of Women Voters. At its previous annual convention the league had adopted a resolution urging reapportionment according to the intent of the State constitution, together with a workable method of enforcement.

Early in 1952, representatives of the three groups met to form the Nonpartisan Committee for Constitutional Reapportionment. The committee decided to approach personally a number of influential persons in strategic places throughout the State as an advisory committee. The Young Democrats and Young Republicans were to raise whatever campaign funds would be needed, while the League of Women Voters assumed responsibility for circulating initiative petitions for the 26,282 signatures required.

The initiative itself was a carefully drafted document drawn up primarily by a Portland attorney, John C. Beatty, Jr. (a Young Democrat), assisted by Miss Shirley Field (a Young Republican, member of the League of Women Voters, and later a State legislator), and Philip Levin (attorney and Young Democrat). The proposed amendment to the constitution retained the spirit of the oroginal provisions written in 1857, which called for a reapportionment of legislative seats after each Federal census among the counties "according to the white population in each." The initiative proposed three changes: (1) deletion of the archaic reference to "white" population; (2) enforcement provisions to overcome the problem of legislative inaction or malapportionment; (3) a temporary reapportionment of both houses of the legislature to continue in effect until the next Federal census in 1960.

The heart of the initiative amendment is the method designed to enforce decennial redistricting. As is the case in many other States, the major problem in Oregon had been failure of the legislature to act. Under the new procedure the legislature retains the duty of reapportionment initially, but if it fails to act by July 1 of the year of the legislative session next following the Federal census, the task is to be performed by the secretary of state and filed with the Governor as law by August 1 of the same year. Presumably, any legislature would be sufficiently jealous of its prerogatives to try earnestly to avoid alowing an exectuive official to act in its place; and, an executive would scarcely risk mandamus proceedings through a refusal to comply.

A second potential problem was assurance that future reapportionment statutes comply with the provisions of the constitution. Without proper safeguards a legislature might pass only a token measure or one otherwise not meeting constitutional requirements. To circumvent such possibilities, the initiative amendment vests original jurisdiction in the State supreme court, on the petition of any qualified voter, to review reapportionment measures drafted by either the legislature or the secretary of state. In the event that the court should determine such a legislative measure null and void, it would direct the Secretary of State to draft a reapportionment in compliance with constitutional provisions. Finally, if any measure authored by the secretary of state is found to be inadequate, the supreme court "shall return it forthwith to the Secretary of state accompanied by a written opinion specifying with particularity wherein the draft fails to comply with the requirements." The executive official is to "correct the draft

in these particulars and in no others," and file the corrected reapportionment with the Governor.

It can be seen that in our State we have carefully worked out a plan for reapportionment. Great faith was reposed in the Supreme Court or the judiciary for the fair handling of any questions that might arise.

I continue to read:

This constitutes one of the most explicit and detailed "automatic" redistricting plans to be found; and, the judiciary is brought into the picture to an extent seldom paralleled.

That is why the present situation seems like such an anomaly to me.

I continue to read:

While the court is not authorized to do the actual drafting of reapportionment statutes, it is directed to supervise the process closely in accordance with constitutional requirements. In fact, the spirt of the constitutional amendments treats decennial reapportionment as more of a ministerial or technical function than a political one. Actually, it should be emphasized that the degree of discretion permitted the apportioning agent (whether legislature or secretary of state) in Oregon is narrowed by several considerations. The most important of these is the fact that counties which receive more than one representative or senator have not been divided internally into single-member districts—they are either allocated a number of at-large seats; or, in the case of Multnomah County since 1956, 5 subdistricts, each electing three or four representatives-at-large, have been created. Another limiting factor is the retention of the original constitution's method of apportioning both houses by "major fractions"—i.e., a county or district with more than half a ratio would ordinarily be entitled to a seat; those with less than a half ratio would be attached to adjoining counties.

Since the enforcement provisions just outlined are not to take effect until after the 1960 Federal census, the initiative amendment specified a temporary reapportionment to begin in the 1954 elections. This arrangement substantially equalized districts in both houses. The size of the legislature remained the same as the existing constitutional maximum—30 senators and 60 representatives. Eastern Oregon lost an aggregate of two senate and three house seats. In the west, Multnomah County (Portland area) gained two representatives, and in addition gained full title to one seat in each house formerly shared with adjoining counties. Other shifts in western Oregon took account of population changes since the prior apportionment.

With the league of women voters supplying the missionary zeal needed to collect signatures throughout the State, the proposed initiative qualified for a place on the 1952 ballot. In spite of a limited budget the the nonpartisan committee for constitutional reapportionment had several advantages working in its favor. For one thing, the very makeup of the sponsoring group indicated that it was in fact nonpartisan. Newspaper support was forthcoming from both of Portland's dailies, the Oregonian and the Oregon Journal, and in the State capital at Salem from the influential Oregon Statesman.

Press support even included two of eastern Oregon's most important dailies, the Bend Bulletin and the Pendleton East Oregonian. Organized labor backed the initiative, but was not so intimately associated with the campaign as to arouse the suspicion or opposition of the business community.

Finally, the movement for reapportionment received a form of backing that would be impossible in virtually all other States. Oregon's most influential farm organization, the Oregon State Grange, lent its support to the measure. The grange's executive committee, in favoring reapportionment, called for accompanying legislation to direct multimember constituencies in order to give rural areas of these counties adequate representation. Support from the traditionally liberal grange can be explained by several factors. Under the proposed initiative, several counties with substantial agricultural areas would gain representation. The grange's proposal for subdistricting the more populous counties to avoid urban monopoly of entire at-large delegations is understandable.

Proponents of the reapportionment initiative waged a vigorous and well-organized campaign. In speeches and pamphlets they represented the principle of reapportionment by "major fractions" of population as a compromise between an area-based plan and an "equal proportions" population method. To calm the fears of voters outside the Portland area, initiative sponsors pointed out that many counties would increase their representation, and that several would gain proportionately more than Multnomah.

On November 4, 1952, the electorate endorsed the reapportionment initiative by a substantial majority of 357,550 to 194,292. The statewide effectiveness of the campaign for the amendment is indicated by the fact that it carried 20 of Oregon's 36 counties. Heavy support came not only from urban areas but from several farming counties as well. The opposition centered in eastern Oregon, though three of these counties favored the initiative. Only one county in western Oregon failed to cast a majority for the measure.

I have always been proud of Oregon for the way it has handled this matter, because, from a purely selfish viewpoint, I did not think that the eastern Oregon counties would have voted for it. I do not know quite how to explain it; whether it attests to the wonderful educational system, to the lack of a provincial attitude that we thought prevailed, to the good sense and good judgment of our people, or to an effective campaign. However something contrived to bring about this remarkable victory.

In spite of this decisive victory, the leaders of the amendment campaign soon had their handiwork to defend. Some legislators were less enthusiastic about the new districts than the electorate had been. In 1953, David Baum, Republican representative from La Grande in eastern Oregon, initiated a proceeding in circuit court for a declaratory judgment against the validity of the new measure. Baum asserted that his rights would be affected under reapportionment by the enlarging of his constituency to include an additional county. Officers of the Non-Partisan Committee for Constitutional Reapportionment, concerned lest the case receive routine and possibly inadequate defense by the State's Attorney General's office, successfully entered the litigation as Intervenors. On October 9, 1953, the circuit court upheld the new sections of the constitution.

After lying dormant for several months, the case was suddenly revived about a month before the filing deadline for the 1954 primary elections. Opponents of reapportionment filed a lengthy brief appealing the circuit court's decision of the previous autumn. On this occasion Representative Baum elaborated on the same line of argument that had failed earlier. His primary contention was that the new amendment violated the principle of separation of powers by allocating legislative functions to the Secretary of State and the Supreme Court; furthermore, that the separation of powers is unamendable, because otherwise "our freedoms may be short lived." In addition, it was argued that the initiative amendment covered more than one subject and did not clearly indicate to the electorate the nature of the change proposed. Finally, the appellant struggled for a Federal ground by insisting that the principle of separation of powers is protected by the U.S. Constitution's guarantee of a republican form of government and the 14th amendment's due process and equal protection clause.

Contesting the appeal was the State's Attorney General's office, plus several attorneys from the Non-Partisan Committee for Constitutional Reapportionment who, though on short notice, filed an elaborate brief as Intervenors. On March 2, 1954, the Oregon Supreme Court unanimously upheld the lower court and thus the amendment.

* * * * *

With the final obstacle of litigation removed, the new apportionment went into effect with the 1954 elections. While a substantial number of districts remained unaffected, there were several important shifts. The status of Multnomah County improved slightly in the senate and substantially in the lower house. Sectionally speaking, most of the losses in political power occurred in the northern portion of eastern Oregon. The comparative legislative strength of both the metropolis and eastern Oregon before and after the 1954 reapportionment is indicated by the following table:

TABLE I

	1950 population	Percent of State population	Percent of representation			
			House		Senate	
			Before	After	Before	After
Multnomah County	471,357	31.0	23.0	26.7	22.8	23.3
Eastern Oregon	247,383	16.3	26.7	21.7	26.7	20.0

* * * * *

Moreover, as important as the allocation of a few added seats to the most populous county was the substantial equalization of districts throughout the State. Under the old apportionment, house districts varied in population per representative from a low of 6,952 to a high of 41,925. These extremes were narrowed to 12,740 and 31,570 respectively. In the senate, districts formerly varied from 8,401 to 85,138; the new apportionment adjusted the disparity to 26,317 as the smallest and 67,362 as the largest population groupings. However, these figures illustrate the extremes only. Most of the new districts fall within a much closer range. And, since the "major fractions" method makes a concession from a pure population basis, some disparities are inevitable.

One further yardstick of a State legislature's representative character is found by calculating the smallest percentage of the State's population which could theoretically elect a majority of each house. This can be done by totaling districts beginning with the least populous until a bare legislative majority is reached. This procedure does not assume that the smallest districts necessarily

act in unison to produce legislative majorities. It is merely a theoretical construct which indicates how broadly or narrowly based potential majorities can be.

The addition of legislative strength to the larger counties accentuated one situation that had long been criticized in Oregon, namely, the election of multimember delegations at large. Multnomah County voters now had substantial representative equality, but they also had an even longer ballot than before, with 16 representatives and 7 senators to elect at large. Each primary and general election would ordinarily find at least twice that number of candidates. This condition placed an unusual condition on name-familiarity or on the party label.

This was true. In a certain city in Oregon there is a street named after a pioneer family. It is a main streetcar artery that goes through the heart of a big fringe area that is residential, on the fringe of the business area. I dare not mention the name of the street; but it so happened that there was a family, not related to the pioneer family after whom the street was named, but who had the same name. There was no political experience or background in this family, but the family enjoyed remarkable political success in Multnomah County for years because, somehow, there was familiarity with that name.

However, in the very year that a separation of this populous county into subdivisions went into effect, that family disappeared from representation in the legislature, because people had a chance to examine the voting record. It is not that there was anything at all reprehensible about their service in the legislature; but the incident showed how much it had been tied to familiarity with the name.

Reading further:

It also made a rational choice difficult, especially in the primaries, since a voter entitled to ballot for as many as 16 names could help defeat his favorite candidates if he used all of his available choices. This frequently resulted in "bullet voting" by factions which favored one group of candidates only and would vote no further. In the larger counties the minority party found it difficult to win seats proportionate to its strength, facing a majority party slate in the general elections. However, there seemed to be little if any sentiment for creating urban single-member districts, with the consequent potential for gerrymandering.

I know that before we could get separate districts as one phase of political reform, we were trying to educate voters that by voting for all 16 names that were allowed then, they were actually defeating some candidate whom they wished very much to have succeed. But it was difficult to instruct the voter that a single shot was the same as giving that man or woman 16 votes. But in view of the cases in which it was necessary to bring about some changes, this activity finally proved to be successful.

Reading further:

At the 1953 session of the Oregon Legislature, an interim committee recommended legislation to meet the problem. It proposed that the larger counties be divided into subdistricts, each electing from two to four representatives, and each as equal in proportionate population as possible. Specifically, the legislature was asked to divide Multnomah County into four large four-member districts, and two downstate counties into subdistricts largely corresponding to urban-rural lines. In addition, the committee recommended that candidates file by position number and reside in the district in which they file.

The legislature declined to enact the above proposals, partly due to doubts as to the constitutionality of subdistricting. However, it did submit to the electorate a constitutional amendment giving the legislature power to divide counties into subdistricts of contiguous territory and proportionately equal population (for both houses). This amendment was ratified in the general election of 1954.

The following year the legislature passed a statute dividing Multnomah County into five large subdistricts for representatives, effective with the 1956 elections. Voting for senators-at-large was retained.

Similar legislation in some of the other large counties failed.

One of the groups that opposed such legislation was the members of the Republican Party. I was a member of a committee hearing this proposal, and I remember meeting Republicans from Portland who came to testify against it. The irony of it was that as soon as Portland was divided, Republicans were elected to the legislature. They even gained strength in what we thought were predominantly Democratic areas. But the reapportionment contributed to what I call good government, in that the Republican candidate was able to meet his Democratic opponent in small parish halls or small gatherings, where the electorate at least had a chance to see their two candidates and make their own decision. In this case they chose a Republican. I think that is good government, even if my State lost some membership in the legislature. I presume I may say that with a grandiose gesture because, of course, there were other areas in which Democrats prevailed.

Oregon's reapportionment of 1954 has so far survived several attempts to change the constitution again to provide for a more rural-oriented legislature. The legislative sessions of both 1955 and 1957 saw determined but unsuccessful efforts of some lawmakers to gain approval for a one-senator-per-county plan.

I used to listen to some of them. I had the feeling that their hearts were not really in it, because they themselves did not suffer. They were there; but, of course, it always makes good reading at home if one can show that he is attempting to upset the status quo. Reading further:

After one legislative rebuff, proponents of such a change resorted to the initiative process in 1955 and 1956. Sponsored primarily by agricultural interests in eastern Oregon, this proposal would have limited urban legislative power far more severely than the "balanced apportionment" initiative defeated in 1950. Leaders of the movement labeled their new project the "Federal plan," possibly having been impressed by the semantic advantages the term had enjoyed in some other States.

California, Arizona, Nevada, and New Mexico feel that there is some virtue in this arrangement. However, this failed to collect signatures for the ballot; and every time an attempt is brought up now to change the constitutional reapportionment, it grows weaker and weaker. I continue to read:

Reapportionment by initiative in Oregon provides a fruitful case study of how effective this direct democratic device can be in circumventing legislative inaction on a fundamental problem of free government. It offers a refreshing contrast to the ill-fated initiative campaign in California a few years earlier to reconstitute that State's rural-dominated Senate. There the electorate, even in urban areas, rejected the measure to increase urban representation. After analyzing that emotion-laden contest, Prof. Thomas Barclay pessimistically concluded: "The campaign for the adoption of the amendment gave meager support for the dogma that man is a rational being." Yet, both the campaign and the electorate's voting behavior in Oregon displayed a high degree of rationality.

What accounts for the success of the reapportionment campaign in Oregon? The most important consideration was the unusually broad basis of support for the initiative amendment, which was able to claim effective backing from individuals and groups representing a wide diversity of interests. One reason for this remarkable feat seems to be the strength of constitutionalism as a principle. The argument that the provisions of the State constitution should not be ignored had an appeal—and properly so—even to many conservatives.

It is usually the conservatives who wave the banner of the Constitution.

Reading further:

It was an undoubted advantage that the proponents of reapportionment were attempting to enforce the existing constitution rather than to introduce a new basis of representation.

We were trying to go forward, in the way our forefathers had decided upon:

The avoidance of a partisan clash was also crucial. In so many States political party strength divides sharply along urban-rural lines, making a bipartisan or nonpartisan reapportionment movement difficult if not impossible. This type of urban-rural split is not characteristic of Oregon. As a result, support for the reapportionment amendment came from leaders in both parties. Moreover, the campaign coincided with a propitious period when a number of younger Democrats and Republicans were beginning to assume positions of leadership in both party and State office. These able and energetic individuals welcomed the opportunity to join forces in what they regarded as the cause of responsible State government. Their rally and cosponsor, the League of Women Voters, played a central role throughout. The League's grassroots network of dedicated workers contributed time and energy in circulating petitions for signatures and in educating various lay groups about the issues involved. Moreover, the League's status as a public-spirited, nonpartisan organization gave the initiative campaign a prestige which cannot be underestimated. Last, but far from least, the support of Oregon's most influential newspapers was instrumental to the success of reapportionment.

Enumerating these various components of victory is far easier than answering the more basic question posed: What accounts for this broad degree of consensus in Oregon in favor of the ideal of "one man, one vote" as compared with its frequent absence elsewhere? To explore this problem would require the kind of analysis that is beyond the scope of this present article. When more is known about this facet of State politics we shall be able to assess more adequately the possible effectiveness of the initiative process in resolving the persistent problem of making and keeping legislatures representative. In any case, Oregon's experience offers an example worthy of study and possibly of emulation.

Mr. DOUGLAS. Mr. President, will the Senator from Oregon yield for a question?

The PRESIDING OFFICER (Mr. EDMONDSON in the chair). Does the Senator from Oregon yield to the Senator from Illinois?

Mrs. NEUBERGER. I am glad to yield.

Mr. DOUGLAS. First, let me say that the Senator from Oregon is giving very eloquent testimony, because, as she has said, she was a member of the Oregon Legislature at the same time when her husband was also a member of that legislature. Both of them served with great distinction.

Does the Senator from Oregon believe that that achievement would have been possible without the initiative?

Mrs. NEUBERGER. Never.

Mr. DOUGLAS. In other words, if the legislature itself had been the one to act, it would not have reformed itself, would it?

Mrs. NEUBERGER. No. That has been tried many times. It was not possible. That was where our great referendum and initiative system proved to be invaluable.

Mr. DOUGLAS. It was started more than half a century ago by William S. U'Ren.

Of course the initiative has never come into use east of the Mississippi River, with the possible exception of Wisconsin. In the main, it has spread through the West, but has not spread over the remainder of the country. Indeed, it has fallen into a good deal of desuetude in the States where it is legal, and therefore it is not a remedy which can be used in a great many States.

Mrs. NEUBERGER. The Senator from Illinois is quite correct.

Of course, when one works for a cause, he becomes a part of it. Everyone who carried a petition or signed a petition or participated in the fight in other ways, involved himself in it; and that resulted in more good government in our States than was obtained from many other activities in connection with politics.

Mr. McCLELLAN. Mr. President, will the Senator from Oregon yield, so that I may call up a conference report?

Mrs. NEUBERGER. I am glad to yield.

E. A. ROLFE, JR.—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215) for the relief of E. A. Rolfe, Jr. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215) for the relief of E. A. Rolfe Jr., having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment and agree to the same.

OLIN D. JOHNSTON,
JOHN L. McCLELLAN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

ROBERT T. ASHMORE,
JOHN DOWDY,
ROLAND V. LIBONATI,
GARNER E. SHRIVER,
CARLETON J. KING,
Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. McCLELLAN. Mr. President, I ask for the adoption of the report.

Mr. MILLER. Mr. President, will the Senator from Arkansas yield for a question?

Mr. McCLELLAN. I am glad to yield to the Senator from Iowa.

Mr. MILLER. I thank the Senator from Arkansas.

During the consideration of the bill by the Senate, a few weeks ago, I offered an amendment. In brief, the bill waives the statute of limitations for certain years, so that the claimant can obtain a refund of taxes allegedly overpaid for those years.

The general policy of legislation of this type is that if the statute of limitations is waived in favor of the taxpayer, so that he can obtain a refund, the statute of limitations should also be waived in favor of the Government, so that the Government can obtain an overpayment for those years, if, indeed, there was one.

My amendment would have waived the statute in favor of both the taxpayer and the Government.

I understand that the House refused to concur in the amendment, that conferees were duly appointed, and that they reached the conclusion that the amendment should not be agreed to, because, in their opinion, it would delay disposition of the refund.

The distinguished Senator from Arkansas was gracious enough to inform me of the conferees' opinion. As a result, I consulted the office of the Secretary of the Treasury, and I received a letter, dated August 14, signed by Lawrence M. Stone, tax legislative counsel. I read from the letter:

In view of the foregoing, it is our opinion that your amendment would not delay any determination with respect to any refund that might be owing to the taxpayer if the above-mentioned bill is passed.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Re: H.R. 2215

OFFICE OF THE SECRETARY
OF THE TREASURY,
Washington, D.C., August 14, 1964.

HON. JACK MILLER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MILLER: It is our understanding that the amendment filed by you to the above bill would provide that the waiver of the statute of limitations would run to the Goverment's assessment of a net deficiency as well as to the taxpayer's collection of a refund.

Without an opportunity for consultation with the field personnel of the Internal Revenue Service, it cannot be determined at this time whether or not there is a likelihood of a net deficiency rather than a net refund in this case for the years covered by the bill.

We would point out, however, that the bill merely provides for a waiver of the statute of limitations and the determination of any refund or deficiency for any of the years involved would have to be made by an audit. Under the Internal Revenue Code, the Internal Revenue Service may offset additional deficiencies which it claims for a taxable year against any refund claim for that year. This is true even though the statute of limitations may have run against the Government's right to assess a net deficiency against the taxpayer for that year. Thus a full audit would be required with or without your amendment. Of course, in any event, if after audit the taxpayer and the Government are not agreed as to the appropriate settlement amount, the matter would then have to be litigated.

In view of the foregoing, it is our opinion that your amendment would not delay any determination with respect to any refund that might be owing to the taxpayer if the above-mentioned bill is passed.

These comments relate only to the effects of your amendment. The position of the Treasury Department in opposition to this bill remains unchanged. We should also like to point out that this bill, unlike the normal relief bill, would allow the taxpayer to recover interest on any refund found to be owing to him. The Treasury Department would also oppose the bill on this additional ground.

Very truly yours,

LAWRENCE M. STONE,
Tax Legislative Counsel.

Mr. MILLER. I also wish to point out that, granted the sincerity of the conferees in reaching the opinion that my amendment would delay the disposition of this case, the opinion of the conferees is obviously in error, because the policy of the Treasury Department is clearly set forth in the letter, which indicates very definitely that my amendment would not delay the disposition of the case.

I do not propose to interpose objection to the conference report. All I wish to do is point out that the general policy in cases of this sort is to waive the statute of limitations for both sides. That is the only fair thing to do. I regret that apparently the conferees arrived at a decision which was completely erroneous, in light of the Treasury Department's policy, which I believe the conferees could have ascertained as readily as I have.

I thank the Senator from Arkansas for his courtesy in yielding to me.

Mr. McCLELLAN. I have been glad to yield to the Senator from Iowa.

Mr. President, in order to make the RECORD complete, I believe I should have printed at this point in the RECORD—and I so request—the letter from Mr. John DornBlaser, a certified public accountant representing Mr. Rolfe. The letter is addressed to Representative E. C. GATHINGS, and is dated May 7, 1962. At-